

**Agenda**  
**Bar Harbor Town Council**  
**March 4, 2014**

- I. **CALL TO ORDER** – 7:00 p.m. – Town Council Chambers
  - A. **Excused Absence(s)**
    - 1. Councilor Walsh
    - 2. Councilor Bowden
- II. **PUBLIC COMMENT PERIOD** – The Town Council allows public comment during the discussion of any item shown on the agenda, except Executive Session items. Up to fifteen minutes of open public comment on any subject not on the agenda will be allowed at this time.
- III. **APPROVAL OF MINUTES**
  - A. **February 18, 2014 - Regular Meeting**
  - B. **February 26, 2014 - Special Meeting**
- IV. **ADOPTION OF AGENDA**
- V. **CONSENT AGENDA** – A single vote has been scheduled to approve the following routine items of business without discussion, unless individual agenda item action is requested by a Councilor:
  - A. **Certification of Property Owners and Abutters Mailing Lists** – Possible passage of a motion to sign the certification of the mailing list for the notice of the Bar Harbor Town Council public hearing on March 4, 2014 for the “Land Use Ordinance Rewrite”, which is a repeal and replacement of the existing land use ordinance.
- VI. **PUBLIC HEARINGS:**
  - A. **Land Use Ordinance Rewrite:**
    - 1. Public comment on the proposed Town Code, Chapter 125, Land Use Ordinance Rewrite, an Ordinance to repeal the existing Land Use Ordinance and replace it by adoption of the Land Use Ordinance of the Town of Bar Harbor, Maine dated January 7, 2014.
    - 2. Possible Council action to confirm the amended Council Order dated February 4, 2014 placing the proposed Ordinance on the June 10, 2014 annual town meeting ballot.
- VII. **REGULAR BUSINESS:**
  - A. **Vacation Rentals Ordinance** – Request of the acting Planning Director for amendment of the Vacation Rentals Ordinance, to bring it into compliance with recent Land Use Ordinance amendments.

**B. Treasurer's Warrant** – Request of Treasurer to authorize paid bills.

**VIII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA**

**IX. ADJOURNMENT**

**In order to assure your full participation in this meeting,  
we would appreciate your informing us of any special  
requirements you might have due to a disability.  
Please call 288-4098**

## Manager's Memo

To: Bar Harbor Town Council  
cc: Department Heads  
From: Dana J. Reed, Town Manager  
Date: Friday, February 28, 2014 *DJR*

Re: **Town Council Meeting of March 4**

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### Items To Bring With You

In order to save paper and staff time, we have not copied the following documents, since you have received them previously. If you are in need of another copy, please contact the Town Clerk.

➤ *LUO Rewrite*

### CALL TO ORDER – 7:00 P.M.

#### Excused Absences

At this time, Christopher Walsh and David Bowden are the only councilors who have advised us that they will be unable to attend the meeting. Accordingly, it would be appropriate to pass a motion to excuse Christopher Walsh and David Bowden as provided by Town Charter section C-12.B(1)(d).

### CONSENT AGENDA

A single vote has been scheduled to approve the following items of business without discussion, unless individual agenda item action is requested by a Councilor. I respectfully suggest passage of a motion to approve all items on the consent agenda as published.

### Certification of Property Owners and Abutters Mailing Lists

LUO section 125-9.D. states:

- (3) In addition to the notice required by the preceding two subsections, when an amendment is proposed to the Neighborhood Districts Map of Bar Harbor that, within a geographically specific portion of the Town, will have the effect of either prohibiting all industrial, commercial or retail uses where any of such uses is permitted or permitting such uses where any of such uses is prohibited, the following is required: . . .
  - (b) For each parcel within the Town that is in or abutting the portion of the Town affected by the proposed amendment, the notice must be mailed by first-class mail at least 13 days prior to the public hearing to the last known address of the person to whom property tax on each parcel is assessed. The municipal officers shall prepare and file with the Town Clerk a written certificate indicating those persons to whom the notice was mailed and at what addresses, when it was mailed, by whom it was mailed and from what location it was mailed.

Consequently, I respectfully request passage of a motion “to sign the certification of the mailing list for the notice of the Bar Harbor Town Council public hearing on March 4, 2014 for the ‘Land Use Ordinance Rewrite’, which is a repeal and replacement of the existing land use ordinance”.

## **PUBLIC HEARINGS**

### **Land Use Ordinance Rewrite**

We have advertised the public hearing for Tuesday night. Following public comment, should you still feel that you wish to move forward with the LUO Rewrite, I respectfully suggest passage of a motion "to confirm the amended Council Order dated February 4, 2014 placing the proposed Ordinance on the June 10, 2014 annual town meeting ballot".

## **REGULAR BUSINESS**

### **Vacation Rentals Ordinance**

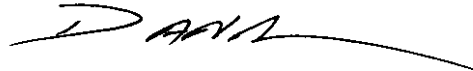
Acting Planning Director Angela Chamberlain has pointed out that our existing Vacation Rentals Ordinance (Town Code Chapter 190) is not consistent with the amendments to the Land Use Ordinance (Town Code Chapter 125) adopted by Town Meeting in June of 2011. Her draft language for a proposed Town Code amendment is attached. Should you like to bring Chapter 190 into compliance with the Land Use Ordinance, I respectfully suggest passage of a motion to direct the Town Manager to prepare an ordinance for Council consideration which amends Chapter 190 of the Town Code, the Vacation Rentals Ordinance, into conformity with Chapter 125, the Land Use Ordinance.

### **Treasurer's Warrant**

I respectfully request passage of a motion, to sign the Treasurer's Warrants for paid bills.

## **ADJOURNMENT**

See You Tuesday!



**Minutes**  
**Bar Harbor Town Council**  
**February 18, 2014**

- I. **EXECUTIVE SESSION** – 6:00 p.m. – Meeting Room – In attendance were Councilors Ruth Eveland, Gary Friedmann, Paul Paradis, Peter St. Germain, Robert Garland, Christopher Walsh, David Bowden; and Town Manager Dana Reed.
  - A. **Personnel Matter** – *Consultation with legal counsel on the Town Council's rights and responsibilities. (To be held in executive session as permitted by 1 MRSA 405.6.E)* – Mr. Paradis, with second by Mr. Garland, moved to go into executive session at 6:00 p.m. as permitted by 1 MRSA 405.6.E for consultation with legal counsel on the Town Council's rights and responsibilities. Motion passed 7-0. Council came out of executive session at 7:01 p.m.
- II. **CALL TO ORDER** – 7:03 p.m. – In attendance were Councilors Ruth Eveland, Gary Friedmann, Paul Paradis, Peter St. Germain, Robert Garland, Christopher Walsh, David Bowden; and Town Manager Dana Reed.
  - A. **Excused Absence(s)** – *All were present.*
- III. **PUBLIC COMMENT PERIOD** – *The Town Council allows public comment during the discussion of any item shown on the agenda, except Executive Session items. Up to fifteen minutes of open public comment on any subject not on the agenda will be allowed at this time.* - There were no public comments this evening.
- IV. **APPROVAL OF MINUTES**
  - A. *January 30, 2014 Special Meeting*
  - B. *February 4, 2014 Regular Meeting*Mr. Paradis, with second by Mr. St. Germain, moved to approve the minutes of the January 30, 2014 Special Meeting and the February 4, 2014 Regular Meeting both as presented. Motion passed 7-0.
- V. **ADOPTION OF AGENDA** – Mr. Paradis, with second by Mr. St. Germain, moved to adopt the agenda as presented. Motion passed 7-0.
- VI. **FINANCIAL STATEMENTS** – *Review and possible adoption of a motion to accept the financial statements as presented.* – Following a brief summary by the Finance Director Stan Harmon, Mr. Paradis, with second by Mr. Garland, moved to accept and file the financial statements as presented in the Finance Director's memo dated February 12, 2014. Motion passed 7-0.
- VII. **CONSENT AGENDA** – *A single vote has been scheduled to approve the following routine items of business without discussion, unless individual agenda item action is requested by a Councilor:*

- A. **Water & Sewer Fee Commitment** – *Possible passage of a motion to commit the water and sewer fees to the Town Treasurer for collection.*

Mr. Paradis, with second by Mr. St. Germain, moved to approve all items on the Consent Agenda as published. Motion passed 7-0.

### VIII. PUBLIC HEARINGS:

A. **Special Amusement Permits:**

1. **Harborside Hotel & Marina, 55 West Street, for a Class 3ad, three or more musicians with mechanical amplification and dancing as submitted by Golden Anchor, LC. (Renewal)**
2. **Bar Harbor Inn, Newport Drive, for a Class 3ad, three or more musicians with mechanical amplification and dancing as submitted by Donna Mitchell. (Renewal)**

There being no comments from the public, the public hearing was closed and Mr. Paradis, with second by Mr. Garland, moved to approve the special amusement permit renewals for Harborside Hotel & Marina and Bar Harbor Inn both as advertised. Motion passed 7-0.

- B. **FY15 Budget:** *Public hearing on and possible adoption of the fiscal year 2015 budget, for the period July 1, 2014 to June 30, 2015.*

1. *Public comment on the proposed budget.*

Following Town Manager Dana Reed's opening remarks; several residents expressed their concerns with the proposed school budget cuts to the seventh and eighth grade music curriculum and requested to restore \$24,000 to the school budget. In addition, there were a few residents inquiring the need of a deputy town manager, the proposed town planner position verse hiring a planning director, and the calculation of benefits for both positions.

At the close of the public hearing, Mr. Walsh, with second by Mr. Friedmann, moved to increase the School budget line item #1100-1000-510100, Teacher's Salaries, by the budget amount cut of \$24,000. Motion failed 2-5 (Nay: Mr. Bowden, Ms. Eveland, Mr. Paradis, Mr. St. Germain, Mr. Garland). Some of the reasons stated for not supporting the motion was that it is the function of the School Board, who are elected officials, to present the school budget, and increasing the line item does not mandate it to be used for the music teacher's salary. It was recommended to those who expressed concerns to attend town meeting to make their case, and to make the motion from the floor for the increase.

Following the recalculations of the benefits for the proposed to new positions, deputy town manager and town planner; Mr. Friedmann, with second by Mr. Paradis, moved to correct the deputy town manager's and town planner's cost centers to reflect the benefit change.

and to restrict the deputy town manager's start date by a delay date to have a net increase. Motion passed 7-0.

Following discussion of a motion made at the Council's January 30, 2014 budget meeting to cut the Fire Department's CIP and the budget impact for the following years; Mr. Friedmann, with second by Mr. Paradis, moved to reduce the FY15 budget line item Fire Department's CIP Fire Engine #4 by \$18,343 and reduce the tax rate accordingly, and to spread the amount evenly over the remaining four years. Motion failed 3-4 (Nay: Ms. Eveland, Mr. Bowden, Mr. St. Germain, Mr. Garland).

Mr. St. Germain, with second by Mr. Bowden, moved to reconsider the motion of January 30, 2014: "to reduce Fire Department CIP by \$18,343, Fire Engine #4 Reserve". Motion passed 4-3 (Nay: Mr. Walsh, Mr. Friedmann, Mr. Paradis).

The motion of reconsideration failed 2-5 (Nay: Ms. Eveland, Mr. Paradis, Mr. St. Germain, Mr. Garland, Mr. Bowden).

2. *Possible approval of a motion to adopt the proposed budget, (with or) without change and recommend it to the Warrant Committee.* – Mr. Paradis, with second by Mr. Garland, moved to adopt the proposed FY15 Budget as amended by the previous motions and recommend it to the Warrant Committee. Motion passed 7-0.

#### IX. REGULAR BUSINESS:

- A. **Resolution – Proclamation of the Town Council recognizing Bob Kane for over 45 years of dedicated service to the Town of Bar Harbor.** – Following the reading of the resolution by Vice-Chair Friedmann; Mr. Paradis, with second by Mr. St. Germain, moved to sign the resolution recognizing Bob Kane for his over 45 years of dedicated service to the Town of Bar Harbor and wish him the best in his retirement. Motion passed 7-0.

Resolution  
of the  
Bar Harbor Town Council

WHEREAS, Wastewater Superintendent Robert J. Kane is congratulated on his retirement of February 10, 2014, after serving more than forty-five years with the Town of Bar Harbor, its residents and many visitors; and

WHEREAS, Robert, aka Bob, is known as an individual who faces challenges head-on; and

WHEREAS, Bob, demonstrated diligence and focus in his service with the Bar Harbor police force, gaining promotions from patrol officer to sergeant to lieutenant, in five years; and

WHEREAS, Bob displayed leadership and expertise in building a utility for the Town from one of a frail and antiquated facility, having just three employees, to a modern operation serving tens of thousands while protecting the environment; and

WHEREAS, Bob earned a reputation for his high standards and his drive of dedication to do each job completely; and

WHEREAS, Bob excels in creativity and is known island-wide and beyond as the go-to-guy for solutions; and

WHEREAS, Bob will truly be missed by all; and now therefore,

BE IT RESOLVED, that the Honorable members of the Bar Harbor Town Council do hereby recognize and express their appreciation to Robert J. Kane for his forty-four plus years of service to his community, friends, neighbors and the Town of Bar Harbor; and be it further

RESOLVED, that the members of the Bar Harbor Town Council wish to extend their best wishes to Bob Kane for much success and enjoyment in his retirement.

Given under our hands and seal at Bar Harbor this eighteenth day of February 2014.

B. **Ferry Terminal** – *Report of Councilor Paradis on a bill before the state legislature which would fund acquisition of the Ferry Terminal property from the Canadian government.* – Councilor Paradis reported that he has been working closely with Senator Langley on the proposed bill, who has worked with area legislators to cosponsor the bill, a bill to fund the acquisition of the Ferry Terminal property. It is expected LD1767 will come up for public comment in early March. Together with Chamber Executive Director Chris Fogg a team will be assembled to testify in support of the bill at the upcoming hearing.

C. **Treasurer's Warrant** – *Request of Treasurer to authorize paid bills.* – Mr. Paradis, with second by Mr. Garland, moved to sign the Treasurer's warrant for paid bills. Motion passed 7-0.

#### X. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA

**Mr. Garland** stated he did not envy Public Works Director Chip Reeves and his job at the moment.

**Mr. St. Germain** congratulated the MDI Girls' swim team on this year's State win.

**Mr. Friedmann** stated that he and the students will be reporting to the Town Council with recommendations and findings for the use of solar power on the town owned properties.

**Mr. Bowden** announced that he hopes the citizens put faith in this Town Council for the need of a deputy town manager and additional, the changes that are coming forth, such as the ferry terminal and the Route 3 reconstruction.



- XI. **ADJOURNMENT** – Mr. Paradis, with second by Mr. St. Germain, moved to adjourn at 8:23 p.m. Motion passed 7-0.

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Patricia A. Gray, Town Clerk

**Minutes**  
**Bar Harbor Town Council**  
**February 26, 2014**

(The meeting was broadcast live, and recorded in its entirety, except the executive session. Recording in DVD format entitled "Town Council 2-26-14 Part 1 and 2".)

- I. **CALL TO ORDER** – 10:00 a.m. – Town Council Chambers – In attendance were Councilors: Ruth Eveland, Gary Friedmann, Paul Paradis, Peter St. Germain, Robert Garland, Christopher Walsh, David Bowden; and Town Attorney Matthew Tarasevich. Town Manager Dana Reed was present and represented by Attorney Susan Driscoll; and Nathan Young was in attendance and represented by Attorney Greg Frame. Attorney Bruce Merrill was present representing the Bar Harbor Police Department employees.
- II. **HEARING ON A PERSONNEL MATTER** – Mr. Paradis, with second by Mr. St. Germain, moved to go into Executive Session, at 10:00 a.m., to consult with the Town Attorney concerning the Council's legal rights and responsibilities, pursuant to 1 M.R.S.A. 405(6)(E). Motion passed 7-0. Executive session was moved to the Meeting Room. Council and Attorney Tarasevich returned to the meeting at 10:16 a.m. The hearing resumed at 10:18 a.m.

Chair Eveland read the opening statement that noted both parties agreed to the date of hearing. Further, she stated that Nathan Young requested the hearing to be held in open session, and he was asked if he still wished for open session. Mr. Young replied, "Yes". Chair Eveland continued to read the public's requirements and expectations to those in attendance. She reviewed the ground rules of this hearing, the timeline for the opening and closing remarks, and the remaining proceedings.

Following attorney Driscoll's and Frame's opening remarks, they began their questioning of the following parties: Town Manager Dana Reed; following a short break, resumed at 11:45 a.m. with a taped interview by attorney Driscoll and Frame with the Town's outside investigator Jon Goodman; ending the viewing and taking a recess at 12:55 p.m. The hearing resumed at 1:30 p.m. with the following witnesses: Bar Harbor Patrol Officer Larry Fickett; then calling, Officer Judson Cake; and Officer Eric McLaughlin. Following an eight minute break, the hearing resumed at 2:51 p.m. with Bar Harbor Police Dispatcher Karen Richter; and Sergeant David Kerns. Nathan Young was called to the stand at 3:05 p.m.; following questioning, a ten minute recess was taken. The hearing resumed at 4:19 p.m. with attorney Frame's and Driscoll's closing remarks, each were limited to five minutes.

Councilor Friedmann, with second by Councilor Paradis, moved to deny the appeal of Mr. Young, and to accept the decision of the Town Manager to terminate Mr. Young's employment. Following comments by each Councilor, the motion passed 5-2 (Nay: Councilors Walsh and Garland).

- III. **ADJOURNMENT** -- Mr. Paradis, with second by Mr. Friedmann, moved to adjourn at 4:55 p.m. Motion passed unanimously.

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Patricia A. Gray Town Clerk

**Certification  
Of  
Property Owners and Abutters Mailing List  
For**

**Bar Harbor Town Council Notice of Public Hearing for March 4, 2014 on the  
Proposed Bar Harbor Land Use Ordinance, adoption of a new Land Use  
Ordinance dated January 7, 2014, for June 10, 2014 town meeting ballot.**

Pursuant to the Bar Harbor Town Code Chapter 125-9C (3) (b), The Bar Harbor Town Council hereby certifies that the attached mailing list which contains the list of property owners, abutters and addresses were mailed the notice entitled:

**“Bar Harbor Town Council Notice of Public Hearing  
Land Use Ordinance: Adoption of a new Land Use Ordinance  
(Repeal and Replacement of current LUO)”**

on February 18, 2014 from the Bar Harbor Post Office, 55 Cottage Street.

Given under our hands and seal at Bar Harbor on this fourth day of March 2014.

Municipal Officers of the Town of Bar Harbor

_____ Ruth A. Eveland, Chair	_____ Gary Friedmann, Vice Chair
_____ Paul A. Paradis	_____ Christopher Walsh
_____ Peter St. Germain	_____ Robert E. Garland
_____ David Bowden	

ADDED 2/14/14

Grantee	Co_grantee's Name	Mailing Address	Mailing Ad: City	State	Zip	Zip_Text
BRANDT, WILLIAM	BRANDT, ELLEN JT	263 WHILEY ROAD	GROTON	MA	1450	01450
DARLING, JOHN B	DARLING, DEBORAH A JT	4141 HIGEL AVENUE	SARASOTA	FL	34242	34242
DELAITRE, JOSHUA		PO BOX 35	HULLS COVE	ME	4644	04644
DICKINSON, JENNIFER , HI	HELFRICH, KATHERINE, SAMUE	8704 WILD PRAIRIE ROSE WAY	LORTON	VA	22079	22079
ENGLING, JOEY M	ENGLING, MICHAEL JT	124 A JEFFERSON STREET	HOBOKEN	NJ	7030	07030
ESTACIO, LEONARDO C	ESTACIO, LUZVIE E	3 SHANNON WAY	BAR HARBOR	ME	4609	04609
EV INC		C/O WYMAN TAPLEY	PO BOX 15 HULLS COVE	ME	4609	04609
GARNER, PATRICIA D	DENISON, GREGORY L (JT)	2808 W DEER PATH TRAIL	JANESVILLE	WI	53545	53545
GLOGER, PAUL K	GLOGER, MARY P	337 HOLMES ROAD	PITTSFIELD	MA	1201	01201
GRIFFIN, GLENN B	GRIFFIN, NANCY D JT	3915 BALMAR MEWS	BALTIMORE	MD	21211	21211
GRIFFIN, STACIE L		PO BOX 42	SEAL HARBOR	ME	4675	04675
KASHIN, ELLEN D	ANDREWS, STOCKTON A JR	925 DELAWARE AVENUE	BUFFALO	NY	14209	14209
LISCOMB, PETER F	LISCOMB, ELIZABETH A JT	PO BOX 532	BAR HARBOR	ME	4609	04609
LOVE, MICHAEL		178 HASKELL ROAD	NORTH YARMOUTH	ME	4097	04097
MCMANUS, JOSHUA H		PO BOX 153	SEAL COVE	ME	4674	04674
MCPHEE, LUCINDA M	TRL HADLEY, STEPHEN W TRUSTEE	MARY H HADLEY IRREVOC TR 3915 49TH	SEATTLE	WA	98105	98105
NEEL, JAMES C	NEEL, TRACEY L JT	109 KNOX ROAD	BAR HARBOR	ME	4609	04609
PINE HEATH ROAD ASSOC OF TOWN HILL		PO BOX 15215	PORTLAND	ME	4112	04112
ROONEY, TIMOTHY M	ROONEY, LINDA C JT	46 WEST STREET EXTENSION 3	BAR HARBOR	ME	4609	04609
SINQUEFIELD, BRYAN & R	RORKE, STEPHEN E & JEANNE	12325 HIGHLAND AVENUE	FALLS CHURCH	VA	22046	22046
SPOFFORD, JACQUELINE J		9 FOGG ROAD	BAR HARBOR	ME	4609	04609
STIRES, MARK & BETSY TP	M STIRES & B STIRES REVOC TI	711 SPRINGVALE ROAD	GREAT FALLS	VA	1720	01720
STOLTE, ETZARD		600 MAIN STREET	BAR HARBOR	ME	4609	04609
STRATHMAN, PAUL A	STRATHMAN, JOCELYN C JT	1134 RICHLAND MEADOWS DRIVE	BALLWIN	MO	63021	63021
TAWNEY, JANE E		PO BOX 1142	SOUTHWEST HARBO	ME	4679	04679
TJ NEEDHAM, LLC		37 HANNA DRIVE	TRENTON	ME	4605	04605
WALLS, JERYL W		9 ASH STREET	BAR HARBOR	ME	4609	04609
WESELCOUCH, EDWARD (	LUCCHESI, KATHRYN J (JT)	13 CASTLE ROAD	WESTFORD	MA	1886	01886
WILSON, ROGER M		18 BRIDGE STREET	BAR HARBOR	ME	4609	04609
WITHERELL, JESSICA	WITHERELL, TOM	32 GLEN MARY ROAD	BAR HARBOR	ME	4609	04609

Grantee	Co_grantee's Name	Mailing Address	Mailing Address 2	City	State	Zip	Zip Text	Country
CHAIKEN, ROBERT	CHAIKEN, HASNAH	2-36-2 TAMACHO FUCHUSHI		TOKYO	XX	00183	00183	JAPAN
MALINOWSKI, STEPHEN S	MALINOWSKI, CHERYL	41 NORTH ROAD		WEST HAMPTON	MA	01027	01027	
FISK, ELAINE W		390 PORTER ROAD		EAST LONGMEADOW	MA	01028	01028	
SEABURY, LELAND B	BROWN, DONNA M	200 NORTH MAIN STREET	SUITE 202	EAST LONGMEADOW	MA	01028	01028	
ZINGER, PETER	ZINGER, OTILIA	109 EAST CIRCLE DR		EAST LONGMEADOW	MA	01028	01028	
JAMES, WAYDE		49 PINE BROOK CURV		NORTHAMPTON	MA	01060	01060	
MURPHY, DALE BONNER		46 CLOVERDALE STREET		FLORENCE	MA	01062	01062	
TRUMP, ROBERT E		601 FLORENCE ROAD		FLORENCE	MA	01062	01062	
CHEVRIER, MARK P	CHEVRIER, PAULA L	208 MAIN ST		WILBRAHAM	MA	01085	01085	
SEABURY, HELEN H		177 GREENACRE AVENUE		LONG MEADOW	MA	01106	01106	
ZUCKER, DOROTHY		1 TREEHOUSE CIRCLE #16		EAST HAMPTON	MA	01207	01207	
MATSON, STELLA ANN		15 WITHINGTON LANE		HARVARD	MA	01415	01415	
DZEKEVICH, JOSEPH A	LANCASTER, RITA M	17 WITHINGTON LN		HARVARD	MA	01451	01451	
LOWN, JENNIFER		97 SUMMER ST		MAYNARD	MA	01454	01454	
DOREY, JEANNE		15 MARCEY ROAD		HOLLAND	MA	01521	01521	
HARRIS, LISA	BARNARD, GRAHAM	344 MOUNTAIN ROAD		PRINCETON	MA	01541	01541	
FISHER, BRIAN	FISHER, DAN	9 BLAKE STREET		WESTBOROUGH	MA	01581	01581	
HEATH, JOHN A		12 LILAC COURT		ACTON	MA	01720	01720	
MILLER, NICHOLAS P TRUSTEE	MILLER, ANDREA S TR	SHORE ACRES REALTY TRUS	30 TAYLOR RD	ACTON	MA	01720	01720	
SHANLEY, HARRY T	MILEY MARGARET	71 MAPLE ST		ACTON	MA	01720	01720	
LAST, THOMAS A	LAST, TRUDY J	2 SHERMAN LN		BEDFORD	MA	01730	01730	
BRUNELLE, ARTHUR J	MOORE-BRUNELLE, KA	19 ESTABROOK RD		CARLISLE	MA	01741	01741	
HERSHBERGER, HEIDI		66 COMMONWEALTH AVENUE		MARLBOROUGH	MA	01752	01752	
LASKO, KIM LEE	ZEBROWSKI, DONNA JE	10-4 DEER PATH		MAYNARD	MA	01754	01754	
DESANCTIS, SUSAN		11 BYPASS ROAD		LINCOLN	MA	01773	01773	
MANSFIELD, JOAN FENNO		12 MACKINTOSH LANE		LINCOLN	MA	01773	01773	
FISCHER, JUDITH H		36 RICH VALLEY ROAD		WAYLAND	MA	01778	01778	
MARSAHLL, MARY		5 KNOLLWOOD LANE		WAYLAND	MA	01778	01778	
WESSLER, JOHN S & STEPHEN L TRU	THE MARGARET WESSI	18 KARLTON CIRCLE		ANDOVER	MA	01810	01810	
CHAISSON, MICHAEL R	BARRUS, VIRGINIA	46 RIVERHURST RD		BILLERICA	MA	01821	01821	
COPPETA, ROBERT A	COPPETA, PATRICIA A	81 CHADWICK STREET		NORTH ANDOVER	MA	01845	01845	
MCCARTHY, DENNIS J		216 FOSTER STREET		LOWELL	MA	01851	01851	
SARASON, JULIE C.		276 PARKVIEW AVENUE		LOWELL	MA	01852	01852	
HADLEY, RICHARD F SR	HADLEY, ANN M	45 IDLEWILD RD		TEWLSBURY	MA	01876	01876	
RICHARDSON, PAUL W TRUSTEE	RICHARDSON, EDITH E	35 PLEASANT STREET REAL	7 INTERVALE RD	NAHANT	MA	01908	01908	
SABIN, WENDY L	SABIN, D DANIEL	2 RIDING CLUB ROAD		DANVERS	MA	01923	01923	
COLLIER FAMILY TRUST	C/O ELIZABETH MOORI	PO BOX 927		ESSEX	MA	01929	01929	
BROOKS, MICHAEL D	BOERI, MIRIAM W	43 TOPSFIELD ROAD		IPSWICH	MA	01938	01938	
GLASS, STEVEN M		62 OLD SOUTH MAIN ST		MIDDLETON	MA	01949	01949	
GIARRUSSO, ROY P	GIARRUSSO, KRISTEN F	2 BUTTON COVE ROAD		HINGHAM	MA	02043	02043	



VII A.

## MEMORANDUM

To: Dana Reed, Town Manager  
From: Angela Chamberlain, CEO/Interim Planning Director *AC*  
Re: **Vacation Rental – Chapter 190**  
Date: February 25, 2014

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It has recently come to my attention that Chapter 190 (Vacation Rentals) is not ~~in~~ consistent with the language contained in Chapter 125 (Bar Harbor Land Use Ordinance) as it pertains to Vacation Rentals. The Bar Harbor Land Use Ordinance was amended on June 14, 2011 to allow Vacation Rentals in almost all districts, eliminate the distinction between homestead Vacation Rentals and non-homestead Vacation Rentals, and to require that all Vacation Rentals pass an inspection prior to the issuance of a permit.

Unfortunately, Chapter 190 was never amended after the June 14, 2011 vote and as a result, the two chapters are not consistent with each other.

I have prepared a draft amendment of Chapter 190 to be consistent with the Vacation Rental language in Chapter 125 and the order which passed on June 14, 2011. I have also attached the June 14, 2011 Order as background material.

I would respectfully request that the Town Council review the draft ordinance amendment at their March 4, 2014 meeting and if they are supportive of this amendment, call for a public hearing to amend Chapter 190 of the Town Code.

§ 190-1 Purpose.

The purpose of this chapter is to regulate the use in alignment with state laws and regulations.

§ 190-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

VACATION RENTALS -- As defined in Land Use Ordinance § 125-109.

§ 190-3 Registration; procedure.

- A. All vacation rentals shall be registered with the Town of Bar Harbor prior to rental. Registration forms shall be filed with the building permit files under the management of the Code Enforcement Officer.
- ~~B. Property owners with vacation rentals that qualify for a homestead exemption (36 M.R.S.A. §§ 681 through 689, respectively) shall register the use of their property under this chapter initially. All other property owners with vacation rentals must register such use under this chapter annually.~~
- ~~C.~~ B. Registration forms shall include the following information:
  - (1) Name and mailing address of the owner of the property;
  - (2) Physical address of the property to be rented;
  - (3) Local contact name and phone number;
  - ~~(4) Determination of qualifications for homestead exemption status;~~
  - (5) Determination of Land Use Ordinance compliance.
- ~~D.~~ E. If inspection is required by this chapter, then ~~the~~ The property shall pass inspection prior to the issuance of the registration card.
- ~~E.~~ F. A registration card shall be issued to the property owner upon submission of the completed form and payment of any fees as may be set from time to time by the Town Council. The card shall certify that the applicant has met all requirements in this chapter and the Land Use Ordinance as attested by both the Fire Chief and the Code Enforcement Officer or his/her designee. ~~The registration card for renewal of an unexpired vacation rental registration shall be valid for 12 months from the date of expiration of the previous registration card, regardless of the date of issuance of the renewal registration.~~ [Amended 10-7-2008 by Ord. No. 2008-03]
- F. G. An approved registration card shall be posted on the premises of the vacation rental unit for convenient inspection by a vacation rental occupant.



- ~~GE.~~ Registration does not relieve the property owner from the obligation to obtain any additional permits necessary for the use.

§ 190-4 Inspections; compliance with certain regulations.

- A. ~~Vacation rentals in homestead exemption properties do not require a life safety inspection.~~
- ~~BA.~~ All ~~Vacation~~ rentals in ~~all other properties~~ shall be inspected initially by the Fire Department for life safety requirements.
- ~~GB.~~ Compliance with certain regulations required.
- (1) For the purposes of this chapter, vacation rentals shall comply with the following chapters of the NFPA 101 Life Safety Code, as most recently amended and edited, and as applicable:
- (a) Chapter 4, General.
  - (b) Chapter 6, Classifications of Occupancy and Hazard of Contents.
  - (c) Chapter 7, Means of Egress.
  - (d) Chapter 9, Building Service and Fire Protection Equipment.
  - (e) Chapter 24, One- and Two-Family Dwellings.
  - (f) Chapter 30/31, New and Existing Apartment Buildings.
- (2) Additionally, vacation rentals shall comply with Chapter 70, Electrical Installations, of this Code, as it may be amended, edited and as applicable.

§ 190-5 Enforcement; violations; appeals.

- A. Enforcement authority. The provisions of this chapter shall be enforced by the Code Enforcement Officer.
- B. Violations. A violation of this chapter shall constitute a violation under the Land Use Ordinance, Chapter 125, Article X, Enforcement.
- C. Appeals. An appeal from the action of code enforcement or the Fire Department may be sought through the powers and responsibilities in the Land Use Ordinance, Chapter 125, § 125-103, Administrative appeals.

**Order**  
**Of the Bar Harbor Town Council**  
**For the June 14, 2011 Town Meeting**

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot.

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**Warrant Article**

**Article 7 - LAND USE ORDINANCE AMENDMENT- Vacation Rentals** – Shall an Ordinance dated February 15, 2011 and entitled “An amendment to allow Vacation Rentals in nearly all zoning districts and to revise the regulatory permitting process” be enacted?

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**Ordinance**  
**Vacation Rentals**

**An amendment to allow Vacation Rentals in nearly all zoning districts and to revise the regulatory permitting process.**

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

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**Chapter 125, LAND USE ORDINANCE**

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**ARTICLE III, Land Use Activities and Standards [Amended 5-7-1991; 11-5-1991]**

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**§ 125-17. Bar Harbor Gateway**

**Allowed Uses:**

- (1) Principal uses allowed by building permit or a change of use permit with the Code Enforcement Officer: artist studio, child care family, gallery, government facility, home occupation<sup>1</sup>; municipal facility, municipal school; public or private park with minimal

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<sup>1</sup> Home occupations in properties with lot frontage or access on Route 3 shall be required to obtain Minor Site Plan approval.

structural development; ~~all~~ vacation rentals; single family dwelling and two family dwelling.

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#### **§ 125-18. Village Historic.**

##### **D. Allowed Uses:**

- (1) Principal Uses allowed by Building Permit or a Change of Use Permit from the Code Enforcement Officer: home occupation; public or private park with minimal structural development; vacation rentals ~~on homestead exemption property~~<sup>2</sup>; single family dwelling, two-family dwelling; non-commercial greenhouse, and government facility/use.

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#### **§ 125-20.1. Village Residential. [Added 6-8-2010]**

##### **E. Allowed Uses:**

- (1) Principal uses allowed by Building Permit or a Change of Use Permit from the Code Enforcement Officer: government facility with road frontage on Route 3 or Eagle Lake Road; home occupation; municipal school; public or private park; single and two-family dwelling; roadside stand; vacation rentals. ~~vacation rental on homestead exemption property<sup>3</sup>; roadside stand. All vacation rentals are permitted for properties with road frontage on Route 3 or the Eagle Lake Road.~~

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### **ARTICLE IV, Nonconformity**

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#### **§ 125-54. Nonconforming uses of land or structures.**

The use of any land or structure which is made nonconforming as a result of the enactment of this chapter, or any subsequent amendment, may be continued, but only in strict compliance with the following:

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~~G. Nonconforming vacation rentals. Notwithstanding other requirements in this section, nonconforming vacation rentals shall comply with the following: [Added 6-13-2006; amended 11-4-2008; 6-9-2009]~~

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<sup>2</sup> ~~Activity allowed only for single family dwelling on a homestead exemption property plus one additional accessory dwelling on same property. This activity includes a unit in a two family dwelling where the unit is a homestead exemption property and the two family dwelling is the sole principal structure on the lot.~~

<sup>3</sup> ~~Activity allowed only for single family dwelling on a homestead exemption property plus one additional accessory dwelling on same property. This activity includes the units in a two family dwelling when the two family dwelling is the sole principal structure on the lot.~~

- ~~(1) Vacation rentals in dwelling units for non-homestead exemption properties in neighborhood districts which do not allow the use shall continue to exist only if there has been a lawful, registered continuation of the use of the dwelling unit for this purpose after November 15, 2006. Continuation of the use means that the unit was rented at least 14 days during each twelve-month period after November 15, 2006, with registration for all years as required by Chapter 190 of the Town Code.~~
- ~~(2) Vacation rentals in dwelling units in Multifamily Dwelling I or on lots containing three or four dwelling units in neighborhood districts which do not allow the vacation rental use shall continue to exist if evidence of continuation of the use of the dwelling unit is shown with registration as required in Chapter 190 of the Town Code. Evidence of continuation of the use shall be verification that the unit was rented at least 14 days during the previous twelve-month period. For new nonconforming vacation rentals, proof must be provided that the unit was rented at least 14 days between November 15, 2005, and November 15, 2006, and at least 14 days each year thereafter.~~
- ~~(3) Vacation rentals in dwelling units in a Multifamily Dwelling II, or on a lot or contiguous parcel or area of land containing five or more dwelling units, in neighborhood districts which do not allow the vacation rental use shall not continue to exist after November 15, 2009.~~
- ~~(4) Nonconforming vacation rentals may be enlarged, extended and occupy a greater area of land, except no additional dwellings intended or constructed for additional vacation rentals shall be allowed.~~

**GH.** Transient accommodations.

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## APPENDIX C AMENDMENT

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### Key to Appendix C

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#### Appendix C Table of Permitted Uses

#### Key to Appendix C

#### Permissibility of Use

- |   |  |
|---|--|
| a | = Activity or structure allowed without a permit, provided it complies with all provisions of this chapter.                        |
| b | = Activity or structure requires approval through site plan review process before it may be commenced or built. [Amended 5-5-2003] |
| c | = Activity or structure requires permit issued by Code Enforcement Officer (CEO) before it may be commenced or built.              |
| l | = Activity or structure requires permit issued by local Plumbing Inspector before it may be commenced or built.                    |

m = Minor site plan review required. [Added 11-3-2009]

blank space = activity prohibited.

### **Footnotes**

- 1 CEO permit required for uses or structures accessory to uses or structures requiring CEO permit; Planning Board/Planning Department approval required for uses or structures accessory to uses or structures requiring Planning Board/Planning Department approval. [Amended 5-5-2003]
- 2 CEO permit required for uses or structures with total developed area not exceeding 2,000 square feet; Planning Board approval required for uses or structures with total developed area of more than 2,000 square feet.
- 3 Only from the north side of Route 3 shoreward for 500 feet from the Trenton town line to Jones Marsh Resource Protection District.
- 4 Lumber yard only.
- 5 Provided that a variance from the setback requirement is obtained from the Board of Appeals.
- 6 CEO permit required for temporary structures; Planning Board approval required for permanent structures.
- 7 CEO permit for services accessory to uses or structures requiring CEO permit; Planning Board/Planning Department approval required for services accessory to uses or structures requiring Planning Board approval. [Amended 5-5-2003]
- 8 Except as provided in § 125-68B(8)(g). [Amended 6-8-2010]
- 9 Single-family dwelling and two-family dwelling permitted only as part of a retirement community on the south side of Crooked Road.
- 10 CEO permit required for uses or structures with gross leasable area not exceeding 2,000 square feet; Planning Board/Planning Department approval required for uses or structures with gross leasable area of more than 2,000 square feet. [Amended 5-5-2003]
- ~~11 Activity allowed only for single family dwelling on a homestead exemption property plus one additional accessory dwelling on same property. This activity includes a unit in a two family dwelling where the unit is a homestead exemption property and the two family dwelling in the sole principal structure on the lot. [Added 6-13-2006]~~
- ~~12 Activity allowed only for single family dwelling on a non-homestead exemption property plus one additional accessory dwelling unit on same property. This activity includes the units in a two family dwelling when the two family dwelling is the sole principal structure on the lot. [Added 6-13-2006]~~
- ~~13~~ Minor site plan for lots with frontage on Route 3 and Route 102 for home occupations with non-family members as employees; otherwise, Code Enforcement Officer permit. [Added 11-3-2009]

124 Except when the area is designated resource protection due to floodplain, in which case a site plan review is required. [Added 6-8-2010]

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### Table of Permitted Uses

*Apply the following changes to Appendix C, Table of Permitted Uses. Due to the elimination of the numbers 11 and 12 as shown in the Key to Appendix C, all number 13's should be replaced with the number 11, and all number 14's will be replaced with the number 12 throughout the Table as well.*

District	Vacation Rentals	Vacation Rentals on Homestead Exempt Property	Vacation Rentals on non-homestead exempt property	Vacation rentals in units in multifamily dwelling 1 or on lots containing in total 3 or 4 dwelling units	Vacation Rentals in units in multifamily dwelling 11 or on lots containing in total 5 or more dwelling units
Downtown Residential	c	e11			
Education District	c	e11			
Emery	c	e11			
Hulls Cove Business	c	e11	e12	e	
Hulls Cove Residential Corridor	c	e11	e12	e	e
Hulls Cove Rural	c	e11			
Indian Point Residential	c	e11			
Indian Point Rural	c	e11			
Industrial					
Ireson Hill Corridor	c	e11	e12	e	e
Ireson Hill Residential	c	e11			
McFarland Hill Residential	c	e11			
McFarland Hill Rural	c	e11			
Marine Research					
Mount Desert Street Historic District	c	e11			
Otter Creek	c	e11			
Resource Protection					
Salisbury Cove Corridor	c	e11	e12	e	e
Salisbury Cove Residential	c	e11			
Salisbury Cove Rural	c	e11			
Salisbury Cove Village	c	e11			
Schooner Head	c	e11			
Scientific Research					

Shoreland General Development I	c	e11	e12	e	e
Shoreland General Development II	c	e11			
Shoreland Limited Residential	c	e11			
Stream Protection					
Town Hill Business	c	e11	e12	e	e
Town Hill Residential Corridor	c	e11	e12	e	e
Town Hill Residential	c	e11			
Town Hill Rural	c	e11			

(end of ordinance)

**EXPLANATION:** This amendment will allow vacation rentals in nearly all land use districts regardless of homestead or non-homestead status. An applicant will still be required to obtain a permit from the Town to operate a vacation rental and the property will be required to pass an initial life/safety inspection prior to issuance of the permit.

Given under our hands and seal at Bar Harbor this fifteenth day of February 2011.

### Municipal Officers of the Town of Bar Harbor

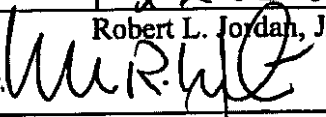
  
Ruth A. Eveland, Chair

  
Sandy McFarland, Vice Chair

  
Jane E. Disney, PhD.

  
Robert L. Jordan, Jr.

  
Peter St. Germain

  
Matthew R. Horton

  
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